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## Rules, Regulations, Orders

### TITLE 7—AGRICULTURE

#### AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38—Tobacco—29]

#### PROCEDURE FOR THE DETERMINATION OF BURLEY TOBACCO FARM MARKETING QUOTAS FOR 1938

##### PART I.—GENERAL

**SECTION 1. Definitions.**—As used in this procedure and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them, unless the context or subject-matter otherwise requires:

(a) *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) *Base 1938 Production* means the number of pounds obtained by multiplying the farm yield by 150 percent of the 1938 tobacco acreage.

(c) *Burley tobacco* means tobacco classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as type 31.

(d) *Burley Quota Procedure* means this Form 38—Tobacco—29, "Procedure for the Determination of Burley Tobacco Farm Marketing Quotas for 1938."

(e) *Cropland* means farm land tilled annually or in regular rotation, excluding commercial orchards.

(f) *Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(i) Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with work-stock, farm machinery, and labor substantially separate from that for any other land) the inclusion of which is requested or agreed to, within the time

and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crop on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under the Burley Quota Procedure;

(ii) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops; *Provided*, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or the local administrative area within the county, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or local administrative area, as the case may be, in which the major portion of the farm is located.

(g) *Farm Marketing Quota* means a Burley tobacco marketing quota established for a farm under section 313 of the Agricultural Adjustment Act of 1938.

(h) *Farm Workers* means a person over fourteen years of age regularly engaged in farm work on the farm.

(i) *Local Committee* means the county and community committee utilized under the Act. "County Committee" or "community committee" shall have corresponding meanings in the connection in which they are used.

(j) *New Farm* means a farm on which tobacco is produced in the year 1938 and on which tobacco was not produced in any of the years 1934, 1935, 1936, and 1937.

(k) *New Farm Reserve* means that amount of the national marketing quota of 350,000,000 pounds apportioned by the Secretary of Agriculture, pursuant to section 313 (c) of the Act, for allotment of marketing quotas to new farms.

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(l) *Old Farm* means a farm on which tobacco is produced in the year 1938 and on which tobacco was also produced in one or more of the years 1934, 1935, 1936, and 1937.

(m) *Operator* means the person who, as owner, landlord, or tenant, is in charge of the supervision and the conduct of the farming operations on the entire farm.

(n) *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(o) *State Committee* means the group of persons designated within any State to assist in the administration in the State of the Act.

(p) *State Quota or State Marketing Quota* means that amount of the national marketing quota of 350,000,000 pounds apportioned by the Secretary of Agriculture, pursuant to section 313 (a) of the Act, for allotment of marketing quotas to old farms in the State; and does not include the 2 percent addition thereto pursuant to section 313 (f) of the Act.

(q) *Three-Year Average* means the average tobacco production and diversion for the farm during the years 1935, 1936, and 1937.

(r) *Tobacco* means Burley tobacco.

**Sec. 2. Gender and number of terms.**—Any term used in the masculine gender or in the singular number shall also be construed or applied in the feminine or neuter gender, or in the plural person, wherever the context or application of such term so requires.

**Sec. 3. Extent of calculations and rule of fractions.**—(a) All percentages shall be calculated to the nearest whole percent. Fractions of more than five-

tenths of one percent shall be rounded upward, and fractions of five-tenths of one percent or less shall be dropped. (b) All acreages shall be calculated to the nearest one-tenth of an acre. Fractions of more than five-hundredths of an acre shall be rounded upward, and fractions of five-hundredths of an acre or less shall be dropped. (c) Yields per acre, three-year averages, and marketing figures resulting from multiplication of acreage by farm yield shall be calculated to the nearest ten pounds. Between intervals of ten, amounts of more than five pounds shall be rounded upward, and amounts of five pounds or less shall be dropped.

**Sec. 4. Instructions and forms.**—The Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture shall cause to be prepared and issued with his approval such instructions and such forms as may be necessary or expedient for carrying out this procedure for determining farm quotas.

**Sec. 5. Applicability of procedure.**—This Burley Quota Procedure shall relate to, and be effective for, the establishment of farm marketing quotas for Burley tobacco for the marketing year beginning with the first day of October, 1938, and ending with the 30th day of September, 1939.

## PART II.—ESTABLISHMENT OF QUOTAS FOR OLD FARMS

**Sec. 1. Determination of normal marketings for old farms.**—The normal marketings for an old farm will be the normal past marketings computed pursuant to section 2 below, adjusted, if necessary, pursuant to section 3 below: *Provided*, that the normal marketings shall in no event exceed the base 1938 production for the farm.

**Sec. 2. Determination of normal past marketings.**—(a) The normal past marketings for an old farm on which tobacco was produced in one of the three years 1935–37, shall be whichever of items (i), (ii), (iii) or (iv) below is the highest for the farm, plus any addition thereto which may be made pursuant to subsection (c) below.

(i) The three year average;

(ii)  $33\frac{1}{3}\%$  of the total harvested and diverted tobacco acreage in the three years, 1935–37, multiplied by the farm yield;

(iii) 40% of the total harvested and diverted tobacco acreage in the two years, of the three years, 1935–37, in which such acreage was the highest, multiplied by the farm yield;

(iv) 60% of the harvested and diverted tobacco acreage in that one of the three years, 1935–37, in which such acreage was the highest, multiplied by the farm yield.

(b) The normal past marketings for an old farm on which tobacco was produced in 1934, but was not produced in any of the three years 1935–37, shall be 50% of the harvested and diverted to-

bacco acreage for the farm for the year 1934, multiplied by the farm yield plus any addition thereto which may be made pursuant to subsection (c) below.

(c) The amount determined for the farm, pursuant to subsection (a) or (b) above, shall be increased, if, because of drought, flood, hail, other abnormal weather conditions, plant bed and other diseases, such amount is substantially less than the amount which otherwise would be determined for the farm. The increase shall be in such an amount as the local and State committees find will cause the normal past marketing for the farm to equal the amount which would have been determined for the farm pursuant to subsection (a) or (b) above in the absence of such abnormal conditions of production.

**Sec. 3. Adjustment of normal past marketings for production capacity.**—(a) The normal past marketings determined for any farm shall be increased if the capacity of the farm for the production of tobacco as indicated by the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco on the farm in 1938, is substantially greater than the tobacco production capacity of other farms in the county having similar normal past marketings, and shall be decreased if the farm's capacity for tobacco production is substantially less than that of other farms in the county having similar normal past marketings.

(b) Any increase or decrease in the normal past marketings of a farm, pursuant to subsection (a) above, shall be in such amount as the local committee finds will cause the normal marketings for the farm (i. e., normal past marketings as adjusted pursuant to this subsection) to reflect adequately the difference in the capacity of the farm for the production of tobacco as compared with the tobacco production capacity of other farms in the county having similar normal past marketings; *provided*, That—

(i) the amount of increase shall not exceed 25 percent of the normal past marketings;

(ii) the amount of decrease shall not exceed the smaller of (A) 25 percent of the normal past marketings or (B) the amount by which the normal past marketings exceeds the smallest of the three-year average, 2,400 pounds, or 85 percent of the base 1938 production; and

(iii) the sum of the increases for all farms in a county shall not exceed the sum of the decreases for all farms in the county.

(c) In appraising the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco for the purpose of determining the capacity of a farm for the production of tobacco, the local committee shall proceed in the following manner:



(i) *Land.*—The land available for the production of tobacco on the farm shall be determined by taking into consideration the total acreage of cropland in the farm, the crop-rotation practices customarily carried out on the farm, the 1938 acreage of tobacco on the farm, and the acreage of other soil-depleting crops normally grown on the farm.

(ii) *Labor.*—The labor available for the production of tobacco on the farm in 1938 shall be determined by taking into consideration the number of farm workers, whether such workers had prior experience in growing tobacco and the extent to which they are required for work on the farm other than in connection with the production of tobacco.

(iii) *Equipment.*—Equipment available for the production of tobacco on the farm shall be determined by taking into consideration the acreage capacity of the tobacco-curing space available for the farm in 1938. Curing space shall include the total space available for curing tobacco in tobacco curing barns or in sheds, rooms, barn lofts or other spaces suitable for curing tobacco, which are located on the farm and are in condition and available for the curing of tobacco for the farm in 1938. Curing space shall also include that part of a tobacco curing barn which is in condition for curing use in 1938 but is located on a different farm which is owned or operated by the same operator, and which is customarily used for curing tobacco grown on the farm; but in considering any such barn allowance shall be made for the fact that such barn serves more than one farm, and the capacity allowed for any farm shall not exceed the proportionate use of such barn by the farm, and the capacity for all farms shall not exceed the total capacity of such barn.

**Sec. 4. Determination of farm yield, marketing, harvested acreage, diverted acreage and diversion.**—(a) *Farm yield.*—The farm yield shall be the average yield per acre for the farm computed pursuant to paragraph (i), (ii), (iii) or (iv) below, adjusted, if necessary, pursuant to paragraph (v) below.

(i) If tobacco was produced on the farm in each of the three years, 1935-37, the average yield per acre shall be the simple average of the tobacco yields per acre for the farm for each of such years. The tobacco yield per acre for a farm for any year shall be computed by dividing the harvested acreage into the marketings for such year.

(ii) If tobacco was produced on the farm in two of the three years, 1935-37, the average yield per acre shall be the number of pounds obtained by multiplying the simple average of the tobacco yields per acre for the farm for each of such two years by that percentage which the county average tobacco yield for the three years, 1935-37, is of the county average yield for the two years in which tobacco was produced on the farm.

(iii) If tobacco was produced on the farm in only one of the three years, 1935-37, the average yield per acre shall be the number of pounds obtained by multiplying the tobacco yield per acre for such year by that percentage which the county average yield for the three years, 1935-37 is of the county average yield for the year in which tobacco was produced on the farm.

(iv) If tobacco was produced on the farm in 1934, but not in any of the three years, 1935-37, the average yield per acre shall be the county average yield for the three years 1935-37.

(v) The local committee shall adjust the average yield per acre for any farm if it determines that such average yield is substantially lower or higher than a yield which reasonably could be expected from the farm. In making its determination the committee shall take into consideration the average yields per acre for other farms in the county which are similar with respect to type of soil, topography and production facilities and the effect of flood, drought, hail, other abnormal weather conditions, fire, plant-bred, and other diseases upon the extent of marketing of tobacco from the farm during any of the years used in computing the average yield per acre for the farm. Any adjustment pursuant to this paragraph shall be such as will result in a farm yield which the committee finds, upon consideration of such factors, could reasonably be expected to be obtained from the farm; provided, That in no event shall the weighted farm yields for all farms in the county exceed the weighted average yield per acre for all farms in the county. The weighted farm yield and the weighted average yield per acre for old farms on which tobacco was produced in one or more of the three years, 1935-37, shall be computed by multiplying the farm yield and the average yield per acre for the farm, respectively, by whichever of the following is the highest for the farm:

A. 33½ percent of the total harvested and diverted tobacco acreage in the three years 1935-37.

B. 40 percent of the total harvested and diverted tobacco acreage in the two of the three years 1935-37 in which such acreage was the highest, or

C. 60 percent of the harvested and diverted tobacco acreage in that one of the three years, 1935-37, in which such acreage was the highest.

The weighted farm yield and the weighted average yield per acre for old farms on which tobacco was produced in 1934 but not in any of the three years, 1935-37, shall be computed by multiplying the farm yield and the average yield per acre for the farm, respectively, by 50 percent of the harvested and diverted acreage of tobacco for the farm for the year 1934.

(b) *Marketings.*—The marketings for any year shall be the number of pounds of tobacco marketed from the farm dur-

ing such year. The total marketings for any year for all farms in a county shall not exceed the total number of pounds of tobacco produced in the county in such year. The marketings for any year, as reported by the operator, shall be adjusted by the local committee if it determines that the amount of such marketings as shown by the records submitted by the operator, or as estimated by him, is larger than the amount of tobacco which reasonably could have been marketed from the farm in such year. In making its determination, the committee shall take into consideration the acreage planted to tobacco on the farm in such year, the yields obtained in such year on other farms in the same community which are similar with respect to soil, topography, and production facilities, the community average yield for such year, and the yield on the farm in years for which records acceptable to the committee are available. The adjusted marketings for any year shall be the amount of tobacco which the committee finds, upon consideration of such factors, could reasonably have been marketed from the farm in such year.

(c) *Harvested acreage.*—The harvested acreage for any year shall be the number of acres actually harvested on the farm. If the county records do not show the harvested acreage for any year, the acreage reported by the operator as having been harvested in such year shall be adjusted if the local committee determines that such reported acreage is larger than the number of acres which could reasonably have been grown in such year. In making its determination, the committee shall take into consideration the curing space available, the cropland, the acres of other crops grown on the farm and the labor on the farm in such year. The adjusted harvested acreage for any year shall be an acreage which the committee finds, upon consideration of such factors, could reasonably have been grown on the farm in such year.

(d) *Diverted acreage.*—The diverted acreage for any year will be the base acreage determined for the farm in connection with the agricultural adjustment or conservation program for such year, minus the harvested acreage for such year; provided, That (i) the diverted acreage for 1935 shall not exceed 40 percent of the base acreage for such year, (ii) the diverted acreage for 1936 shall not exceed 30 percent of the base acreage for such year, (iii) the diverted acreage for 1937 shall not exceed 25 percent of the base acreage for such year, and (iv) the diverted acreage for 1934 shall not exceed 50 percent of the base acreage for such year.

(e) *Diversion.*—Diversion for any year shall be the number of pounds obtained by multiplying the diverted acreage for such year by the farm yield.

(f) *Subdivided farm.*—If land operated as a single farm in 1934, 1935, 1936, or 1937 has been subdivided into two or



more tracts, the base acreage, harvested acreage, and marketings of tobacco for the farm for such year shall be apportioned among the tracts in the proportion which the acres of cropland suitable for the production of tobacco on each such tract in such year bore to the total number of acres of cropland suitable for the production of tobacco on the entire farm in such year; provided, that if the local committee finds that such apportionment would not be equitable in view of the subsequent production on the farms which include such tracts, it shall make such other apportionment as it determines to be fair and equitable.

**Sec. 5. Allotment of State marketing quota.—Marketing Quotas for Old Farms.** The State marketing quota will be allotted, and marketing quotas for old farms will be established, as follows:

(a) An amount will be reserved from the State marketing quota for the purpose of making adjustments as provided in subsections (f) and (h) of this section. The amount to be reserved will be determined by the Agricultural Adjustment Administration in an amount not to exceed 5 percent of the State marketing quota, but such amount shall in no event be less than the amount necessary for making the adjustments required in subsection (f) below.

(b) The Agricultural Adjustment Administration will determine the percentage which the State quota is of the normal marketings of all old farms in the State.

(c) A minimum allotment will be made to every old farm in the State for which there would be obtained, by taking the percentage determined pursuant to (b) above of the normal marketings for the farm, a number of pounds equal to or less than the smallest of (i) 2400 pounds, or (ii) the farm's three-year average, or (iii) 85 percent of the farm's base 1938 production. The minimum allotment for any such farm will be the smallest of (i) 2400 pounds, or (ii) the farm's three-year average, or (iii) 85 percent of the farm's base 1938 production, and such allotment, unless increased pursuant to subsection (h) shall constitute the farm marketing quota.

(d) The total of the normal marketings for all farms to which minimum allotments are so made will be deducted from the total of the normal marketings for all old farms in the State; and the total of such minimum allotments will be deducted from the State marketing quota.

(e) After such deductions, the balance of the normal marketings will be reduced to the amount of the balance of the State marketing quota. This reduction will be made by reducing the normal marketings for all old farms, to which a minimum allotment has not been made pursuant to subsection (c), by the percentage which the balance of the State marketing quota determined pursuant to subsection (d) is of the balance of the normal marketings. The

amount of the normal marketings for each such old farm as so reduced will be allotted to the farm, and, unless increased pursuant to subsections (f), (g), or (h) of this section, shall constitute the farm marketing quota.

(f) If the amount allotted to any farm pursuant to (e) above is less than the minimum allotment which would have been established for the farm pursuant to (c) above, then the amount so allotted shall be increased by an amount sufficient to provide such a minimum. The total of all such increases for all old farms in the State will be deducted from the amount reserved pursuant to (a) above.

(g) There will be computed for each old farm in the State the difference by which the amount allotted pursuant to the foregoing subsections is less than the smaller of (i) 80 percent of the farm's three-year average, or (ii) 85 percent of the base 1938 production. The total of all such differences for all old farms in the State will be reduced to an amount equal to 2 percent of the State marketing quota. This reduction will be made by reducing the difference for each farm by the percentage which 2 percent of the State marketing quota is of the total of the differences for all farms. The amount of the farm's difference as so reduced will be added to the farm's allotment and the sum thereof will be the amount of the farm marketing quota unless further increased pursuant to subsection (h) below.

(h) The amount reserved pursuant to subsection (a), less the amount deducted therefrom pursuant to subsection (f), will be allocated by the State committee among the counties of the State upon the basis of (i) the relationship of the balance of the normal marketings (found under (d) above) for old farms in the county to the balance of the normal marketings for old farms in all counties in the State, and (ii) the relative needs of the counties for adjustments of the quotas established for old farms therein. The amount so allocated to a county shall be allotted upon the recommendation of the local committees among these old farms in the county whose marketing quotas, as compared with the marketing quotas for other similar farms in the county, are determined by the local committee to require adjustment in order to take into adequate account past marketings of tobacco, making due allowance for abnormal weather conditions, plant bed and other diseases; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco.

#### PART III.—ESTABLISHMENT OF QUOTAS FOR NEW FARMS

**SECTION 1. Allotment of new farm reserve.—Marketing quotas for new farms.**—The marketing quota for a new farm will be that percentage of the normal marketings for such farm which

the new farm reserve is of total normal marketings for all new farms in the United States.

**Sec. 2. Determination of normal marketings for new farms.**—(a) The normal marketings for a new farm shall, unless adjusted pursuant to subsection (b) below, be 75 percent of the number of pounds obtained by multiplying the community average yield by whichever of the following is the smaller:

(i) The 1938 tobacco acreage for the farm;

(ii) The county average tobacco acreage for old farms.

The community average yield shall be the simple average of the farm yields for a representative sample of old farms in the community. A representative sample shall include 20 percent or more of the old farms in the community and shall consist, as far as practicable, of alternate farms (i. e., every third, fourth, or fifth farm listed on the State listing sheet) in the community. If the local committee and State committee finds that the number of old farms in the community is too small to provide a reasonable representative sample, the average yield for the nearest community which the State committee finds to be most similar with respect to type of soil, topography, and productivity shall be used as the community average yield.

The county average tobacco acreage for old farms shall be the number of acres obtained by dividing the total of 1938 tobacco acreage of all the old farms in the county by the number of such farms; provided, that if the number of old farms in any county is less than the number of new farms in the county, the county average tobacco acreage for old farms in such county shall be the county average tobacco acreage for old farms in the nearest county (as determined by the State committee) in which the total number of old farms exceeds the total number of new farms.

(b) The number of pounds determined for a farm pursuant to subsection (a) above shall be increased if the capacity of the farm for the production of tobacco as indicated by the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco on the farm in 1938, is substantially greater than the tobacco production capacity of other farms in the county for which a similar number of pounds were determined pursuant to said subsection (a), and shall be decreased if the farm's capacity for tobacco production is substantially less than that of other farms in the county for which a similar number of pounds were determined pursuant to said subsection.

Any adjustment pursuant to this subsection (b) shall be in such amount as the local committee finds will cause the normal marketings for the farm to reflect adequately the difference in the



capacity of the farm for the production of tobacco as compared with the tobacco production capacity of other farms in the county for which a similar number of pounds were determined pursuant to subsection (a) above; provided that the adjustment shall in no event cause the normal marketings to exceed the number of pounds obtained by multiplying the community average yield by the 1938 tobacco acreage for the farm.

In appraising the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco for the purpose of determining the capacity of a farm for the production of tobacco, the local committee shall proceed in the same manner as provided in section 3 (c) of Part II with respect to old farms.

Done at Washington, D. C., this 24th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-3202; Filed, October 25, 1938;  
12:27 p. m.]

[Supplement No. 2]

#### REGULATIONS RESPECTING THE RETIREMENT OF COTTON POOL PARTICIPATION TRUST CERTIFICATES, FORM C-5-I

By virtue of the authority vested in the Secretary of Agriculture by Title IV, "Cotton Pool Participation Trust Certificates," of the Agricultural Adjustment Act of 1938, as amended, Public No. 430, 75th Congress, approved February 16, 1938, and the item entitled "Retirement of Cotton Pool Participation Trust Certificates" contained in Title I of the Department of Agriculture Appropriation Act, 1939, Public No. 644, 75th Congress, approved June 16, 1938, I hereby prescribe the following supplemental regulation designated as Section VII of the Regulations of the Secretary of Agriculture with respect to the retirement of Cotton Pool Participation Trust Certificates, form C-5-I:

SECTION VII. A party signatory to a 1933 "Offer To Enter Into Cotton Option-Benefit or Benefit Contracts" who was not joined as a party to the Cotton Option Contract shall not be deemed to be a co-producer in any case where:

1. Such party signed a waiver which authorized the Secretary to deal with the producer as though he were the sole party in interest.

2. The name of such party does not appear in the recital of parties to the contract at the head of the 1933 Offer, following the words, "The undersigned".

3. Such party is shown on the 1933 Offer to be a lienor.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, have hereunto set my hand and caused the official seal

<sup>1</sup> 3 F. R. 1754, 2194 DI.

of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 25th day of October 1938.

[SEAL] H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 38-3201; Filed, October 25, 1938;  
12:27 p. m.]

#### TITLE 9—ANIMALS AND ANIMAL PRODUCTS

##### BUREAU OF ANIMAL INDUSTRY

#### REGULATIONS GOVERNING THE MEAT INSPECTION OF THE UNITED STATES DEPARTMENT OF AGRICULTURE

##### FACILITIES FOR INSPECTION

SEC. 11.094b *Overtime meat inspection; reimbursement for; specific instructions by Chief of Bureau.*—Reference is made to memoranda Nos. 288 and 489 of the Secretary of Agriculture dated August 4, 1919, and June 18, 1924, respectively, and instructions pertaining thereto, relative to overtime meat inspection furnished at establishments subject to the provisions of the Meat Inspection Act of June 30, 1906, as amended and extended, and the Horse Meat Act of July 24, 1919.

Under the provisions of these memoranda, hereafter meat inspection furnished on New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Armistice Day, and Christmas Day at establishments subject to the Meat Inspection Act of June 30, 1906, as amended and extended, and the Horse Meat Act of July 24, 1919, shall constitute overtime work by the employees of the Bureau required to conduct said inspection. Claim will be made by the Department of Agriculture for the cost of said overtime inspection in conformity with the regulations contained in memorandum No. 288.

The foregoing instructions supersede Bureau Circular Letter No. 2105. (B. A. I. Order 211, Revised Sept. 1, 1922, Reg. 7, Sec. 4.) [S. R. A. B. A. I. 376, August 1938.]

[SEAL] A. W. MILLER,  
Acting Chief of Bureau.

[F. R. Doc. 38-3203; Filed, October 25, 1938;  
12:27 p. m.]

#### REGULATIONS GOVERNING THE MEAT INSPECTION OF THE UNITED STATES DEPARTMENT OF AGRICULTURE

##### IMPORTED MEAT AND PRODUCTS

SEC. 11.770a *Meats from Ireland and Austria; marking to show origin.*—Referring to the notice in Service and Regulatory Announcements of May 1938 quoting abstracts of Customs decisions of the Treasury Department dated February 7 and April 8, 1938, concerning the marking of articles from Ireland and Austria, there are quoted below additional Customs decisions concerning the

marking of articles manufactured or produced in Ireland and the territory which formerly comprised the Republic of Austria.

##### Ireland

"Products of Ireland: Previous decision is extended to include the marking 'Eire' as well as 'Ireland' on merchandise from Ireland."

##### Austria

"Products of Austria: Merchandise manufactured or produced within the territory which comprised the Republic of Austria may be marked 'Made in Germany (Austria)' or 'Made in the Austrian State of Germany.'"

Inspectors in charge and other interested parties will please be governed accordingly. (B. A. I. Order 211, Revised Sept. 1, 1922, Reg. 27, Sec. 10.) [S. R. A. B. A. I. 376, August 1938.]

[SEAL] A. W. MILLER,  
Acting Chief of Bureau.

[F. R. Doc. 38-3204; Filed, October 25, 1938;  
12:27 p. m.]

#### TITLE 16—COMMERCIAL PRACTICES

##### FEDERAL TRADE COMMISSION

[Docket No. 3055]

IN THE MATTER OF VAN-TAGE MEDICINE COMPANY, INC. (G. H. MOSBY)

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that respondent's Van-Tage medical product, or any other product of similar design and for substantially same uses and purposes, will, through action and effect thereof in the body in promoting and aiding the functioning of the stomach and digestive processes and of the liver, kidneys, bladder and bowels, and through effect on said organs as specified and through elimination of impurities from the system, etc., bring relief from headaches, skin eruptions, drowsy tired feeling, rheumatism, backache, and a variety of ailments and conditions attributed to or associated with the functioning of said various organs, and strengthen the nerves naturally, relieve neuritis, etc., and promote vigorous health and improve appearance, etc., or that it is a satisfactory or competent remedy, cure or treatment for any of the numerous conditions set forth, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Van-Tage Medicine Company, Inc. (G. H. Mosby), Docket 3055, October 19, 1938.]

SEC. 3.6 (1) *Advertising falsely or misleadingly—Indorsements and testimonials.* Sec. 3.18 *Claiming indorsements or testimonials falsely.*—Representing, through paid testimonials, the effect of a general use of respondent's Van-Tage medical product upon persons not sufficiently skilled in the diagnosis of human maladies, ills, and conditions, accurately



to state the nature or extent of any effect obtained from use of said product, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) (Cease and desist order, Van-Tage Medicine Company, Inc. (G. H. Mosby), Docket 3055, October 19, 1938.)

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 19th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

**ORDER TO CEASE AND DESIST**

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence taken before Arthur F. Thomas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and the substituted answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint to be true, and state that the Commission may, without taking further testimony or any other intervening procedure, enter and issue its findings as to the facts and conclusion and order to cease and desist, and the Commission, having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, G. H. Mosby individually, and as President of the Van-Tage Medicine Company, Inc., and the Van-Tage Medicine Company, Inc., a corporation, their representatives, salesmen, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of Van-Tage, a medical product or preparation, or any other product of similar design and for substantially the same uses and purposes, whether sold under said name or any other name, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing that the use of the product will throw off poisons that foster stomach trouble and permit the kidney and liver to function properly; that it will act within ten minutes, or any other fixed period of time, to stop gas and pains, sourness, or bloat, and will work the bile from the liver as black as ink, drive the poison from the kidneys, relieve headaches, bladder irritation, and weakness, or is a remedy for any of these troubles in man or woman.

(2) Representing that it will strengthen the nerve by natural means and is considered as having value in the

treatment of enuresis, that it will bring out gases and impurities, which cause many days of misery with headaches, dizzy spells, skin eruptions, lazy, drowsy, tired feeling, or is a remedy for any of these troubles in man or woman.

(3) Representing that it will relieve acid conditions, and make the digestive organs sweet and clean, and give complete relief from indigestion, bloating, sour stomach, shortness of breath, and dyspepsia.

(4) Representing that it will flush out quantities of impurities from the kidneys that may have become dammed up inside a person, causing backache, sharp pains, and rising at night, that it will make a person's liver more active, clear away old bile deposits, thus relieving spells of biliousness and sick headache.

(5) Representing that it will relieve rheumatism and neuritis; that it will clear up skin eruptions that are caused by impurities in the organs, and will overcome the sallowness or muddiness that is due to sluggish liver, and put the rosy glow of health into the cheeks; that it will act on a person's stomach, liver, kidneys, and bowels, build a person up in general and make him (or her) look, act, and feel like a different man (or woman), years younger than his (or her) real age.

(6) Representing that it is a satisfactory or competent remedy, cure, or treatment for any of the conditions set forth herein.

(7) Representing through paid testimonials, the effect of a general use of said product upon persons not sufficiently skilled in the diagnosis of human maladies, ills, and conditions, to accurately state the nature or extent of any effect obtained from a use of said product.

It is further ordered, That the respondents shall, within sixty days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-3199; Filed, October 25, 1938;  
11:12 a. m.]

**TITLE 25—INDIANS  
OFFICE OF INDIAN AFFAIRS**

**NEW UPPER SIOUX INDIAN COMMUNITY IN  
MINNESOTA**

**RESERVATION PROCLAMATION**

OCTOBER 6, 1938.

By virtue of authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. L. 984), the lands described below, acquired by purchase for the use and benefit of the New Upper Sioux Indian Community in Minnesota as authorized in accordance with the provi-

sions of Section 5 of that Act are hereby proclaimed to be an Indian reservation:

The East Half of the Southeast Quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$ ) and Government Lot Two (2) in Section Fifteen (15) in Township One Hundred Fifteen, North, Range Thirty-nine (39) West of the Fifth P. M., and containing 101.88 acres, excepting and reserving all that part of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ ) of said Section Fifteen (15) of said Township and Range which lies south and west of the public highway running through said forty, which exception contains 19.60 acres; also Government Lot One (1) of Section Fourteen (14), in said township and range, containing 16.50 acres according to Government survey thereof; also Government Lot Two (2) of Section Fourteen (14) in said Township and Range; also that part of Government Lot Three (3) in Section Fourteen (14) described as follows: Beginning ten (10) chains west from the Southeast Corner of Lot Three (3) thence west eleven (11) chains, and fifty (50) links, thence due north twenty (20) chains, or parallel with the west line of Section Fourteen (14), thence due east eight (8) chains and Eighty-two (82) links to the Minnesota River, thence down said river bank to a point due North from the starting point, thence South parallel with the North and South center line of said section to the place of beginning containing 21 $\frac{1}{2}$  acres, more or less; also all of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section Fourteen (14) excepting twenty and  $\frac{1}{100}$  (20.05) acres thereof described as follows: Commencing at the quarter post between Sections Fourteen and Twenty-three (23), thence northerly on line Twenty (20) chains, thence westerly on line Ten (10) chains, thence southerly to a point on the section line Ten (10) chains and Fifty (50) links westerly from the quarter post thence to the quarter post Ten (10) chains and Fifty (50) links to the place of beginning; also all of the Northwest quarter of the Southwest quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section Fourteen (14) said Township and Range, containing Forty (40) acres according to Government Survey; excepting and reserving therefrom Lot Four (4) in the Northwest Quarter of the Southwest quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section Fourteen (14), Township One Hundred Fifteen (115), Range Thirty-nine (39) described as follows: Commencing on the North line of said Forty, Nine (9) chains West of the Northeast corner, thence running South Twenty (20) chains, thence West Two and  $\frac{1}{10}$  (2.5) chains, thence North Twenty (20) chains, thence East Two and  $\frac{1}{10}$  (2.5) chains to the point of beginning, containing five acres; also to a tract beginning at a point on the west line of the Southwest quarter of the Southwest quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of said Section Fourteen (14), Two and  $\frac{16}{100}$  (2.16) chains north of the Southwest corner of said Section Fourteen (14) and



running thence by needle variations south fifty-three degrees, east eight and  $\frac{50}{100}$  (8.50) chains, crossing section line and into Section Twenty-three (23) in said township and range, thence north thirty-seven (37) degrees, east sixteen and  $\frac{50}{100}$  (16.53) chains, to the east line of said forty, thence North on line to the Northeast corner of said forty, thence west on line to the northwest corner of said forty, thence south on line to place of beginning, all of said lands being situated in Township One Hundred Fifteen (115) North, Range Thirty-nine (39) West of the 5th P. M.; excepting therefrom, however, a tract of land sold to the State of Minnesota, for highway purposes described as follows:

All that part of the four following described tracts:

1. Northeast quarter of the Southeast quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section 15, Township 115, north, Range 39, west.

2. Northwest quarter of the Southwest quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section 14, Township 115 north, Range 39 west; less sub-lot 4, described as follows: Commencing on north line of said forty, 9 chains west of the northeast corner and running thence south 20 chains, thence west 2.5 chains, thence north 20 chains, thence east 2.5 chains to place of beginning.

3. That part of the Southwest quarter of the Southwest quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section 14, Township 115, north, Range 39 west, described as follows: Beginning at a point on the west line of the Southwest quarter of the Southwest quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of said Section 14, 2.16 chains north of the southwest corner of said section 14 and running thence by needle variations south 53 degrees east 8.50 chains crossing section line and into section 23, thence north 37 degrees east 16.53 chains to the east line of said forty; thence north on line to the northeast corner of said forty, thence west on line to the northwest corner of said forty; thence south on line to place of beginning.

4. The Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section 14, Township 115 north, Range 39 west, except the following: Commencing at the quarter post between sections 14 and 23, thence northerly on line 20 chains, thence westerly on line 10 chains, thence southerly to a point on section line 10 chains 50 links westerly from the quarter post, thence to the quarter post 10 chains 50 links to place of beginning;

which lies within a distance of 50 feet northeasterly and 75 feet southwesterly of the following described line:

Beginning at a point on the easterly boundary of section 25, township 115 north, range 39 west, distant 216 feet southerly of the northeast corner thereof; thence run northwesterly at an angle of 67 degrees 08' with said easterly boundary for a distance of 3667.9 feet,

thence deflect to the right at an angle of 40 degrees 03' for a distance of 3935.7 feet, thence deflect to the right at an angle of 13 degrees 41' for a distance of 1874.4 feet, thence deflect to the right at an angle of 30 degrees 36' for a distance of 1103.5 feet, thence deflect to the left on a 4 degree 00' curve delta angle 39 degrees 24', for a distance of 985.0 feet, thence on tangent to said curve for a distance of 1397.0 feet; thence deflect to the left on a 1 degree 00' curve delta angle 7 degrees 20', for a distance of 733.3 feet, thence on tangent to said curve for a distance of 1381.7 feet and there terminating,

together with a strip of land 5 feet in width lying immediately adjacent to and northeasterly of the above described strip; Beginning at a distance of 520 feet southeasterly of the westerly boundary of the first above described tract and extending southeasterly for a distance of 200 feet (both measurements being along the above described line) and there terminating; containing 11.45 acres, more or less.

That part of Sections 13, 14 and 23, in Township 115, Range 39 West of the 5th P. M., described as follows:—

The W $\frac{1}{2}$  of SW $\frac{1}{4}$  and Government Lot #1 of said Section 13, except the East 5.48 acres of said Lot #1 and excepting from Government Lot 1 in said Section 13 the West 5 acres of sub-lot 4 which sub-lot is described as follows:— Commencing at a point 12.70 chains East of the Southwest corner of said Government Lot 1, running thence North 14.18 chains to the South bank of the Minnesota River, thence East along said river 5.30 chains, thence South 12.22 chains to the South boundary of said Government Lot 1 and thence West 5.30 chains to the place of beginning, containing 6.99 acres.

Government Lots #4 and #6 and the E $\frac{1}{2}$  of SE $\frac{1}{4}$  of said Section 14, and Government Lot #3 of said Section 14, except the West 21 $\frac{1}{2}$  acres thereof conveyed by James F. Langmaid and wife to Sever Olson by deed dated December 14, 1892, and recorded in the office of the Register of Deeds of said County in Book S of Deeds on page 418 and excepting from Government lot 6 in said Section 14 the following tracts:

Sub-lot 5 described as follows: Commencing on the South line of said lot Six 14.26 chains East of the Southwest corner of said Government lot 6, running thence North 25.25 chains to the Minnesota River, thence down the river a point 2 chains due East, thence South 24 chains to the South line of said lot 6 and thence West 2 chains to the place of beginning, containing 4.92 acres and deduct from Government lot 6 of said Section 14 two and 9/100 acres, being a strip of land 92 links wide off the East side of sub-lot 6 which sub-lot is described as follows: Commencing on the South line of said Government lot six 16.26 chains East of the Southwest cor-

ner of said Government Lot, running thence North 24 chains to the Minnesota River, thence East down said river 2.20 chains, thence South 22.30 chains to the South line of said Government lot 6 and thence West 2.20 chains to the place of beginning, containing 5.09 acres and also excepting from Government lot 6 of said Section 14, Sub-lot Seven described as follows: Commencing on the South line of said lot six 18.46 chains East of the Southwest corner of said lot six, running thence North 22.30 chains to the South bank of the Minnesota River, thence East down said river 75/100 chains, thence South 21.70 chains to the South line of said lot six and thence West 75/100 chains to the place of beginning, containing 1.65 acres.

That part of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 14, described as follows:— Commencing at the quarter Section post between said Sections 14 and 23, running thence north on the east line of said last mentioned 40 acre tract, twenty chains, thence west on a line 10 chains, thence south to a point on said section line 10 chains and 5 links westerly of said quarter post and thence to said quarter post 10 chains and 5 links to place of beginning, containing 20.05 acres.

NW $\frac{1}{4}$  of NE $\frac{1}{4}$  and N $\frac{1}{2}$  of NE $\frac{1}{4}$  of NE $\frac{1}{4}$ ; and the NW $\frac{1}{4}$  and the SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section 23, except that part thereof lying South of the Public Highway running in a northwesterly and southeasterly direction through said section 23 as such highway was located in the year 1913 and except 3.75 acres of said section 23 conveyed to Sever Olson in and by deed recorded in the office of the Registrar of Deeds of said County in Book L of Deeds on page 150.

All of said lands being within Yellow Medicine County, Minnesota, containing a total of 738.65 acres, more or less.

E. K. BURLEW,

Acting Secretary of the Interior.

[F. R. Doc. 38-3198; Filed, October 25, 1938; 9:35 a. m.]

## TITLE 47—TELECOMMUNICATION

### FEDERAL COMMUNICATIONS COMMISSION

#### RULES GOVERNING POSTING, FILING, ETC., OF TARIFFS

##### PART 227. CHANGES IN SCHEDULES

Section 227.07 amended to read as follows: \* #

Sec. 227.07 *Schedules attributable to foreign carrier or administration.* When any change is made in a charge by a foreign carrier or foreign administration

\* Sections 220.01 to 235.04 issued under the authority contained in Sec. 203 (a), 48 Stat. 1070; 47 U. S. C. 203 (a).

# Rule 8 (g), Order No. 13-D, F. C. C., Oct. 18, 1938, effective Nov. 17, 1938.



not subject to the Act and such charge is used as a factor of through charges published and filed by a carrier subject to the Act, for communications between points in the continental United States and points in any foreign country, a change in such through charges may be established by the carrier subject to the Act on not less than one day's notice to the Commission and to the public; provided (1) that the carrier subject to the Act has no control over such charge of such foreign carrier or foreign administration by contract or otherwise, (2) that the change in through charges shall reflect only the difference in through charges caused by the change in such charge of such foreign carrier or foreign administration, (3) that a tariff, supplement or revised page shall be filed each time a reduction is made in the charge of such foreign carrier or foreign administration, as well as when increases are made, and (4) that every such tariff, supplement and revised page shall be accompanied by a memorandum showing the portion of the through charges accruing to the carrier subject to the Act.

By the Commission,

[SEAL] T. J. SLOWIE,  
Secretary.

[F. R. Doc. 38-3197; Filed, October 25, 1938;  
9:35 a. m.]

### Notices

#### CIVIL AERONAUTICS AUTHORITY.

[Special Order 408-A-1]

#### DISMISSING APPLICATION OF MARQUETTE AIRLINES, INC.

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 24th day of October 1938.

On September 22, 1938, Marquette Airlines, Inc., applied to the Civil Aeronautics Authority pursuant to section 408 (a) of the Civil Aeronautics Act of 1938 for permission to lease certain aircraft from American Airlines, Inc. Hearings on this matter were held by the Authority at its offices in Washington, D. C., on October 7, 1938 and October 10, 1938. At the hearing on October 10, counsel for the applicant stated that the applicant had decided to purchase the necessary aircraft and moved for the dismissal of the application.

The Civil Aeronautics Authority, therefore, acting pursuant to the provisions of section 205 (a) of the Civil Aeronautics Act of 1938 and finding that its action in such matter is desirable in the public interest, hereby makes and issues the following special order:

SPECIAL ORDER 408-A-1 DISMISSING APPLICATION OF MARQUETTE AIRLINES, INC., FILED PURSUANT TO SECTION 408 (A) (2) OF THE CIVIL AERONAUTICS ACT OF 1938 (52 STAT. 973, 987)

The motion for the dismissal of the application of Marquette Airlines, Inc., for permission to lease certain aircraft is hereby granted and the application is dismissed. The application and all documents pertaining thereto shall, however, be retained in the files of the Civil Aeronautics Authority.

By the Authority.

[SEAL] PAUL J. FRIZZELL,  
Secretary.

[F. R. Doc. 38-3200; Filed, October 25, 1938;  
11:23 a. m.]

#### SECURITIES AND EXCHANGE COMMISSION.

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

[File Nos. 32-106 and 46-114]

IN THE MATTER OF WISCONSIN ELECTRIC POWER COMPANY (FORMERLY THE MILWAUKEE ELECTRIC RAILWAY AND LIGHT COMPANY)

ORDER RELATIVE TO ISSUE AND SALE OF BONDS AND NOTES

Wisconsin Electric Power Company (name changed on October 21, 1938 from The Milwaukee Electric Railway and Light Company), a subsidiary of North American Edison Company, a registered holding company, having duly filed with this Commission an application, and amendments thereto (File No. 32-106), for exemption, pursuant to the provisions of Section 6 (b) of the Public Utility Holding Company Act of 1935, from the provisions of Section 6 (a) of said Act of the issue and sale of \$55,000,000 in principal amount of First Mortgage Bonds, 3½% Series due 1968, and of \$14,500,000 in principal amount of 3.4% unsecured promissory notes, maturing serially from October 28, 1939 to October 28, 1948, the issue and sale of such securities having been expressly authorized by the Public Service Commission of Wisconsin;

Public hearings on said matter having been held after appropriate notice, and the Commission having considered the record in this matter and having made and filed its findings and opinion herein:

It is ordered, That the issue and sale of the aforesaid First Mortgage Bonds and unsecured promissory notes in accordance with the terms and conditions set forth in, and for the purposes represented by, said application, as amend-

ed, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, subject, however, to the following conditions:

(a) That if the express authorization of the issue and sale of such securities by the Public Service Commission of Wisconsin shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission;

(b) That all matters in connection with said application, as amended, shall be performed in all respects as set forth in and for the purposes represented by said application, as amended, provided, however, that no fee shall be paid to Dillon, Read & Co. in connection with the issue and sale of the unsecured promissory notes pending further order of this Commission; and

(c) That within ten days after the issue and sale of such securities the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by, said application, as amended, and in accordance with the terms of this order.

It is further ordered, That the Commission reserves jurisdiction to determine, at a later date, whether the fee to be paid to Dillon, Read & Co., in connection with the issue and sale of the unsecured promissory notes, is or is not reasonable.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3207; Filed, October 25, 1938;  
12:38 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

[File No. 31-178]

IN THE MATTER OF EASTERN MINNESOTA POWER CORPORATION

CORRECTED NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (2) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

<sup>1</sup> 3 F. R. 2373 DI.

<sup>1</sup> 3 F. R. 2318 DI.



It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 5, 1938.

The matter concerned herewith is in regard to the application of Eastern Minnesota Power Corporation for an order pursuant to Section 3 (a) (2) of the Act declaring it to be exempt from the applicable provisions thereof.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3206; Filed, October 25, 1938;  
12:38 p. m.]

No. 209—2

*United States of America—Before the  
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

[File No. 31-183]

**IN THE MATTER OF MANUFACTURERS TRUST  
COMPANY, UTILITY SERVICE COMPANY**

**CORRECTED NOTICE OF AND ORDER FOR  
HEARING**

An application pursuant to section 3 (a) (4) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift, or any other officer or officers of the Commission designated by it for that

purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 5, 1938.

The matter concerned herewith is in regard to the joint application of Manufacturers Trust Company and Utility Service Company for an order pursuant to Section 3 (a) (4) of the Act declaring each of them to be exempt from the applicable provisions thereof.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3205; Filed, October 25, 1938;  
12:38 p. m.]



